

AMENDED IN SENATE APRIL 13, 2004

**SENATE BILL**

**No. 1190**

**Introduced by Senator Chesbro**  
*(Principal coauthor: Assembly Member Wiggins)*

February 9, 2004

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~~An act to amend Section 8265.7 of, and to add Sections 8273, 8274, and 8471 to, the Education Code, relating to child care. An act relating to the Vallejo City Unified School District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, as amended, Chesbro. ~~Child care and development Vallejo City Unified School District.~~

(1) Existing law provides for emergency apportionments to school districts subject to specified conditions including, in certain circumstances, the repayment of an emergency loan over a period of no more than 10 years and the appointment by the Superintendent of Public Instruction of an administrator who would exercise the powers and responsibilities of the governing board of the school district.

This bill would require the Superintendent of Public Instruction to assume all the rights, duties, and powers of the governing board of the Vallejo City Unified School District and to appoint, in consultation with the Solano County Superintendent of Schools, an administrator to act on behalf of the Superintendent of Public Instruction in exercising the superintendent's authority over the school district. The bill would require the administrator to be deemed an employee of the school district for certain purposes.

The bill would require the governing board of the school district to serve as an advisory body reporting to the administrator and prohibit

*its members from receiving any compensation during the period of the superintendent's authority over the district. The bill would authorize the administrator to terminate the employment of certain district personnel, as provided. The bill would authorize the administrator, with the approval of the superintendent, to enter into agreements on behalf of the district and to change any existing district rules, regulations, policies, or practices, as provided.*

*The bill would continue the authority of the superintendent and the administrator over the school district until certain enumerated conditions are met, including the completion of assessment and improvement plans for the school district.*

*The bill would require the administrator to consider, on a monthly basis or more frequently if desired, information from one or more specified groups. The bill would require the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to prepare, by July 1, 2004, an improvement plan for the school district. The bill would require the FCMAT, commencing 30 days following the effective date of this bill and in September 2004 and at least every 6 months thereafter, to file a status report with specified persons on progress made by the district in implementing the plan.*

*The bill, except as specified, would require the school district to bear 100% of all costs associated with implementing its provisions, thereby imposing a state-mandated local program.*

*The bill would appropriate \$60,000,000 from the General Fund to the Superintendent of Public Instruction for apportionment as an emergency loan to the Vallejo City Unified School District. The bill would authorize the school district to sell property owned by the district and use the proceeds from the sale to reduce or retire the emergency loan and would prohibit the district from being eligible for financial hardship assistance under the Leroy F. Greene School Facilities Act of 1998.*

*(2) This bill would make a legislative finding and declaration that the unique circumstances of the Vallejo City Unified School District warrant the enactment of a special statute.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*



*(4) This bill would declare that it is to take effect immediately as an urgency statute.*

~~(1) Existing law requires the Superintendent of Public Instruction to implement a plan that establishes reasonable standards and assigned reimbursement rates for child care providers that contract with the State Department of Education and authorizes a program above the standard reimbursement rate to be considered on a case-by-case basis for rate adjustments due to documented increases in insurance costs.~~

~~This bill would also authorize a program at the standard reimbursement rate to be considered on a case-by-case basis for this rate adjustment.~~

~~The bill would require that a contractor funded for a center based program be allowed reimbursement for up to 4 days a year for staff training.~~

~~(2) Existing law authorizes the governing board of a school district and the county superintendent of schools to establish and maintain child developments and requires them to establish in the county treasury a fund to be known as the “child development fund” into which shall be paid all funds received by the district or the county for, or from the operation of, child development services.~~

~~This bill would require a child care provider that contracts with the State Department of Education and is not a school district, county superintendent of schools, city, county, community college district, or the California State University or University of California to establish in a federally insured banking institution located in California an account to be known as the “child development fund” into which shall be paid all funds received by the contractor, or from the operation of, child development services.~~

~~(3) Existing law authorizes the Superintendent of Public Instruction to enter into local contractual agreements for the delivery of extended day care services and requires the cost of these programs to be competitive with local private market rates. Existing law establishes the maximum reimbursement rate for a full year of extended day care service. Existing law requires the superintendent to annually review the implementation of the reimbursement rates to determine whether they are reasonable, cost-effective and consistent with the goal of increasing the availability of affordable child care services for nonsubsidized children.~~

~~This bill would authorize a provider of extended day care services under contract with the State Department of Education whose costs of~~

operation exceed its earnings under the assigned reimbursement rate to request that its contract be terminated, in which case, upon presentation of cost evidence as required by the superintendent, the department and provider would enter into a general child care and development contract that would require the contractor to continue to serve children enrolled in kindergarten and grades 1 to 8, inclusive, who meet the eligibility requirements for general child care and development programs. The bill would require the contract to provide that program staff employed on the date the contract is entered into have 7 years from that date to meet program personnel qualifications that apply to general child care and development programs.

The bill would authorize the Superintendent of Public Instruction to transfer funds from the amount appropriated for extended day care program contracts for use for payment of general child care and development contracts and would require the superintendent to notify the Department of Finance that funds were transferred.

Vote: majority  $\frac{2}{3}$ . Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 8265.7 of the Education Code is~~
- 2 *SECTION 1. The Legislature finds and declares all of the*
- 3 *following:*
- 4 *(a) Providing a quality education that meets the unique needs*
- 5 *of Vallejo public school pupils is a fundamental goal that should*
- 6 *not be jeopardized.*
- 7 *(b) In February 2004, the Vallejo City Unified School District*
- 8 *became aware of a negative general fund balance for the 2002–03*
- 9 *fiscal year and of potential deficits in its 2003–04 budget.*
- 10 *(c) The Vallejo City Unified School District is projected to run*
- 11 *out of cash in June of 2004 and, without external help, will be*
- 12 *unable to meet current encumbered obligations.*
- 13 *(d) Despite reductions in district expenditures in the current*
- 14 *year and actions taken by the governing board of the Vallejo City*
- 15 *Unified School District to reduce the district budget for 2004–05*
- 16 *by more than \$7.5 million, the district is projected to have a*
- 17 *negative fund balance in the current year of more than \$20 million*
- 18 *and a projected negative fund balance at the conclusion of the*
- 19 *2004–05 fiscal year.*

1     (e) *The Vallejo City Unified School District needs a loan from*  
2 *the state in order to continue the delivery of educational services*  
3 *to pupils enrolled in the district.*

4     SEC. 2. (a) *It is the intent of the Legislature that the state*  
5 *administrator appointed pursuant to this act work with the*  
6 *administrators and governing board of the Vallejo City Unified*  
7 *School District to identify the procedures and programs that the*  
8 *district has implemented during the 2003–04 school year that have*  
9 *proven to do one or more of the following:*

10     (1) *Significantly raise pupil achievement.*

11     (2) *Improve pupil attendance.*

12     (3) *Lower pupil dropout rate.*

13     (4) *Increase parental involvement.*

14     (5) *Attract, retain, and train a quality teaching staff.*

15     (b) *It is the intent of the Legislature that these identified*  
16 *procedures and programs be protected, maintained, and expanded*  
17 *as the budget of the district allows.*

18     SEC. 3. *The Legislature finds and declares that because of the*  
19 *fiscal emergency in which the Vallejo City Unified School District*  
20 *finds itself, and in recognition of the March 31, 2004 request of the*  
21 *governing board of the district for a loan from the state, it is*  
22 *necessary that the Superintendent of Public Instruction assume*  
23 *control of the district in order to ensure the return to the district of*  
24 *fiscal solvency.*

25     SEC. 4. (a) *The Superintendent of Public Instruction shall*  
26 *immediately assume all of the rights, duties, and powers of the*  
27 *governing board of the Vallejo City Unified School District.*

28     (b) *The Superintendent of Public Instruction, in consultation*  
29 *with the Solano County Superintendent of Schools, shall appoint*  
30 *an administrator to act on behalf of the Superintendent of Public*  
31 *Instruction in exercising the authority described in this act. The*  
32 *Superintendent of Public Instruction or the state-appointed*  
33 *administrator may, on a short-term basis, employ at district*  
34 *expense any staff necessary to assist the administrator, including,*  
35 *but not limited to, a certified public accountant. The administrator*  
36 *shall have recognized expertise in management and finance. The*  
37 *administrator shall serve under the direction and supervision of*  
38 *the Superintendent of Public Instruction until terminated by the*  
39 *Superintendent of Public Instruction at his or her discretion. The*  
40 *Superintendent of Public Instruction shall consult with the Solano*

County Superintendent of Schools before terminating the administrator. The Superintendent of Public Instruction, operating through the administrator, may do all of the following:

(1) Implement substantial changes in the fiscal policies and practices of the Vallejo City Unified School District, including, if necessary, the filing of a petition under Chapter 9 of the federal Bankruptcy Act (11 U.S.C. Sec. 901 et seq.) for the adjustment of indebtedness of the district.

(2) Revise the educational program of the Vallejo City Unified School District to reflect realistic revenue projections, in response to the dramatic effect of the changes in fiscal policies and practices upon educational program quality and the potential for the success of all pupils. To the extent allowed by district finances, it is the intent of the Legislature that the revised program maintain the core educational reforms that have led to districtwide improvement of academic achievement, including, but not limited to, educational reforms targeting underperforming schools and other reforms that have demonstrated measurable success.

(3) Encourage all members of the school community to accept a fair share of the burden of the fiscal recovery of the Vallejo City Unified School District.

(4) Consult, for the purposes described in this act, with the governing board of the Vallejo City Unified School District, the exclusive representatives of the employees of the district, parents, and the community.

SEC. 5. (a) (1) To facilitate the appointment of the state-appointed administrator and the employment of any necessary staff, for the purposes of this act, the Superintendent of Public Instruction is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of the Public Contract Code.

(2) The Superintendent of Public Instruction shall establish salary and benefits of the administrator, which shall be paid by the Vallejo City Unified School District.

(3) During the tenure of his or her appointment, the administrator, if otherwise an employee of the state or of the county superintendent, is an employee of the school district, but shall remain in the same retirement system under the same plan that is provided by his or her employment with the state or the office of



1 *the county superintendent. Upon the expiration or termination of*  
2 *the appointment, the administrator shall have the right to return*  
3 *to his or her former position, or to a position at substantially the*  
4 *same level as that position, if that former position was with the*  
5 *state or the office of the county superintendent. The time served in*  
6 *the appointment shall be counted for all purposes as if the*  
7 *administrator had served that time in his or her former position*  
8 *with the state or with the office of the county superintendent.*

9 *(b) For the period of time during which the Superintendent of*  
10 *Public Instruction exercises the authority described in subdivision*  
11 *(a) of Section 4, the governing board of the Vallejo City Unified*  
12 *School District shall serve as an advisory body reporting to the*  
13 *administrator, but has no rights, duties, or powers, and is not*  
14 *entitled to any stipend, benefits, or other compensation from the*  
15 *district.*

16 *(c) Notwithstanding any other provision of law, the*  
17 *administrator may, after according the employee reasonable*  
18 *notice and opportunity for hearing, terminate the employment of*  
19 *any district superintendent of schools, or deputy, associate, or*  
20 *assistant superintendent of schools, or other person employed in*  
21 *an equivalent capacity, whose duties include overseeing,*  
22 *managing, or otherwise directing the fiscal and budgetary*  
23 *operations of the Vallejo City Unified School District, and who is*  
24 *employed by the Vallejo City Unified School District under a*  
25 *contract of employment renewed after the effective date of this act*  
26 *if the employee fails to document, to the satisfaction of the*  
27 *administrator, that before the effective date of this act he or she*  
28 *either advised the governing board of the district, or his or her*  
29 *superior, that actions contemplated or taken by the governing*  
30 *board could result in the fiscal insolvency of the district or took*  
31 *other appropriate action to avert that fiscal insolvency.*

32 *(d) With the approval of the Superintendent of Public*  
33 *Instruction, the administrator may enter into agreements on behalf*  
34 *of the school district and, subject to any contractual and statutory*  
35 *obligation of the school district, change any existing school*  
36 *district rules, regulations, policies, or practices as necessary for*  
37 *the effective implementation of the improvement plan specified in*  
38 *Section 7 of this act.*



1     (e) *The authority of the Superintendent of Public Instruction*  
2     *and the administrator pursuant to this act shall continue until all*  
3     *of the following conditions occur:*

4     (1) *Two complete fiscal years have elapsed following the*  
5     *appointment of the administrator or, at any time after one complete*  
6     *fiscal year has elapsed following that appointment, if the*  
7     *administrator determines, and so notifies the Superintendent of*  
8     *Public Instruction, that future compliance by the Vallejo City*  
9     *Unified School District with the improvement plan specified in*  
10    *Section 7 of this act is probable.*

11    (2) *The County Office Fiscal Crisis and Management*  
12    *Assistance Team (FCMAT) completes the improvement plan*  
13    *specified in Section 7 of this act.*

14    (3) *FCMAT, after consultation with the administrator,*  
15    *determines that for at least the immediately previous six months the*  
16    *school district made substantial and sustained progress in*  
17    *implementation of the plans in the major functional area.*

18    (4) *The administrator certifies that all necessary collective*  
19    *bargaining agreements have been negotiated and ratified and that*  
20    *the agreements are consistent with the terms of the improvement*  
21    *plan specified in Section 7 of this act.*

22    (5) *The district completes all reports required by the*  
23    *Superintendent of Public Instruction and the administrator.*

24    (6) *The Superintendent of Public Instruction concurs with the*  
25    *assessment of the administrator and FCMAT that future*  
26    *compliance by the Vallejo City Unified School District with the*  
27    *improvement plan described in Section 7 of this act and the*  
28    *multiyear financial recovery plan described in paragraph (2) of*  
29    *subdivision (a) of Section 41327 of the Education Code is*  
30    *probable.*

31    (f) *If all of the conditions specified in subdivision (e) occur, the*  
32    *governing board of the Vallejo City Unified School District shall*  
33    *regain all of its rights, duties, and powers.*

34    (g) *Notwithstanding subdivision (f), if the Vallejo City Unified*  
35    *School District violates any provision of the improvement plan*  
36    *specified in Section 7 of this act, after the governing board of the*  
37    *school district regains all of its rights, duties, and powers pursuant*  
38    *to subdivision (f), the Superintendent of Public Instruction may*  
39    *reassume, in accordance with this section, all of the rights, duties,*  
40    *and powers of the governing board of the school district. The*



1 *Superintendent of Public Instruction shall subsequently return to*  
2 *the governing board of the school district all of its rights, duties,*  
3 *and powers reassumed under this subdivision if he or she*  
4 *determines that the conditions of subdivision (e) are satisfied.*

5 *(h) For the purposes of Article 2 (commencing with Section*  
6 *41320) and Article 2.5 (commencing with Section 41325 of*  
7 *Chapter 3 of Part 24 of the Education Code, the administrator is*  
8 *a public school employer within the meaning of the Educational*  
9 *Employment Relations Act (Chapter 10.7 (commencing with*  
10 *Section 3540) of Division 4 of Title 1 of the Government Code).*

11 *SEC. 6. The administrator shall consider, on a monthly basis,*  
12 *or more frequently if so desired by the administrator, information*  
13 *from one or more groups from each of the following categories:*

14 *(a) The governing board of the school district.*

15 *(b) Any advisory council of the school district.*

16 *(c) Any parent-teacher organization of the school district.*

17 *(d) Representatives from the community in which the school*  
18 *district is located.*

19 *(e) The County Office Fiscal Crisis and Management*  
20 *Assistance Team.*

21 *(f) The Superintendent of Public Instruction.*

22 *SEC. 7. (a) On or before July 1, 2004, the County Office*  
23 *Fiscal Crisis and Management Assistance Team (FCMAT) shall*  
24 *prepare an improvement plan for the Vallejo City Unified School*  
25 *District.*

26 *(b) Based upon progress reports prepared pursuant to*  
27 *subdivision (c), FCMAT shall recommend to the Superintendent of*  
28 *Public Instruction those designated functional areas of school*  
29 *district operation that it determines are appropriate for the*  
30 *governing board of the school district to assume.*

31 *(c) Commencing 30 days following the effective date of this act*  
32 *and in September 2004, and each six months thereafter until*  
33 *September 2005, FCMAT shall file a written status report with the*  
34 *appropriate fiscal and policy committees of the Legislature,*  
35 *including any special committees created for the purpose of*  
36 *reviewing the reports, and with the Members of the Legislature*  
37 *who represent the Vallejo City Unified School District, the*  
38 *advisory board of the school district, the Superintendent of Public*  
39 *Instruction, the Director of Finance, and the Secretary for*  
40 *Education. The reports shall include the progress that the Vallejo*

1 City Unified School District is making in meeting the  
2 recommendations of the improvement plan developed pursuant to  
3 this section.

4 SEC. 8. (a) The Vallejo City Unified School District shall  
5 bear 100 percent of all costs associated with implementing this act,  
6 except for the activities of the County Office Fiscal Crisis and  
7 Management Team progress reports specified in Section 7 of this  
8 act.

9 (b) The Vallejo City Unified School District shall add the  
10 administrator as a covered employee of the school district for all  
11 purposes of errors and omissions liability insurance policies.

12 SEC. 9. (a) The sum of sixty million dollars (\$60,000,000) is  
13 hereby appropriated from the General Fund to the Superintendent  
14 of Public Instruction for apportionment to the Vallejo City Unified  
15 School District for the purpose of an emergency loan. In order to  
16 qualify for the loan, the district shall comply with Article 2  
17 (commencing with Section 41320) and Article 2.5 (commencing  
18 with Section 41325) of Chapter 3 of Part 24 of the Education Code  
19 to the extent those provisions are consistent with the conditions  
20 specified in this act.

21 (b) Funds may be disbursed from the proceeds of the loan only  
22 if the administrator and the County Office Fiscal Crisis and  
23 Management Assistance Team jointly determine that the  
24 disbursement is necessary.

25 (c) Based on the needs of the district to meet its obligations, the  
26 Superintendent of Public Instruction may direct the Controller to  
27 disburse, on a monthly basis, specific amounts of the emergency  
28 loan before the approval of all of the conditions established by this  
29 act.

30 (d) For the fiscal year in which the loan moneys are disbursed  
31 and each fiscal year thereafter, the Controller, or his or her  
32 designee, shall cause an audit to be conducted of the books and  
33 accounts of the district, instead of the audit required by Section  
34 41020 of the Education Code. At the discretion of the Controller,  
35 the audit may be conducted by the Controller, his or her designee,  
36 or an auditor selected by the county superintendent and approved  
37 by the Controller. The costs of the audit shall be paid by the district.  
38 The audits shall be performed until the Superintendent of Public  
39 Instruction, in consultation with the Controller, determines that  
40 the district is financially solvent, but may not cease being

performed earlier than one year following the implementation of the plan required by Section 7 nor later than the time the emergency loan, including interest, is repaid. In addition, the Controller shall conduct quality control reviews pursuant to subdivision (c) of Section 14504.2 of the Education Code.

SEC. 10. (a) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (a) of Section 41327 of the Education Code, the Vallejo City Unified School District shall repay the emergency loan incurred pursuant to Section 9 of this act as a straight line loan amortized over a 20-year term. This amount shall be repaid by the district, plus interest calculated at a rate equal to the rate earned by the Pooled Money Investment Account on the date this act becomes effective, for a period not to exceed 20 years.

(b) If a required payment is not made within 60 days after a scheduled date, the Controller shall pay the defaulted loan payment of principal and interest by withholding that amount from the next available payment that would otherwise be made to the county treasurer on behalf of the district pursuant to Section 14041 of the Education Code. However, subject to the approval of the Department of Finance, the amount withheld may be in monthly amounts as determined by an agreement between the Vallejo City Unified School District and the Controller during the period beginning with the next available apportionment through the month preceding the next scheduled payment.

(c) The Director of Finance may amend the payment schedule set forth in subdivision (a) if the director concludes that the amendment is warranted and is in the best interests of both the state and the Vallejo City Unified School District education program. Upon that determination, the director shall notify the Joint Legislative Budget Committee that the payment scheduled will be changed on the date that is 90 days from the date of notification if the Legislature is in session. If the 90-day period ends during a recess of the Legislature or while the Legislature is not in session, the 90-day period shall be extended until the Legislature reconvenes. Amendments to the payment schedule shall defer the unpaid portion of a repayment of the earliest fiscal year in which no other repayment is scheduled. Interest shall accrue on the unpaid portion of a repayment from the scheduled due date until the time the payment is actually made. The interest charge shall be

1 *the rate equal to the daily investment rate of the Pooled Money*  
2 *Investment Account on the date the pay schedule is changed.*

3 *(d) The school district may repay its loan obligation without*  
4 *incurring any prepayment penalties.*

5 *SEC. 11. (a) Notwithstanding Sections 17456, 17457, 17462,*  
6 *and 17463 of the Education Code, or any other law, from June 1,*  
7 *2004, to June 30, 2007, inclusive, the Vallejo City Unified School*  
8 *District may sell property owned by the district and use the*  
9 *proceeds from the sale to reduce or retire the emergency loan*  
10 *provided in Section 9 of this act. The sale only of property pursuant*  
11 *to this subdivision is not subject to Section 17459 or 17464 of the*  
12 *Education Code.*

13 *(b) Notwithstanding any other provision of law, from June 1,*  
14 *2004, to June 30, 2006, inclusive, the Vallejo City Unified School*  
15 *District is not eligible for financial hardship assistance pursuant*  
16 *to Article 8 (commencing with Section 17075.10) of Chapter 12.5*  
17 *of Part 10 of the Education Code.*

18 *SEC. 12. The Solano County Superintendent of Schools*  
19 *maintains the responsibility to superintend school districts under*  
20 *its jurisdiction. This act does not remove any statutory or*  
21 *regulatory rights, duties, or obligations from the county*  
22 *superintendent of schools.*

23 *SEC. 13. The Department of Finance is authorized to redirect*  
24 *funds appropriated in Item 6110-107-0001 of Section 2.00 of the*  
25 *Budget Act of 2003 and from the corresponding item and section*  
26 *number of the Budget Act of 2004 for the purposes of funding*  
27 *activities of the County Office Fiscal Crisis and Management*  
28 *Assistance Team specified in this act.*

29 *SEC. 14. The Legislature finds and declares that due to unique*  
30 *circumstances relating to the fiscal emergency in the Vallejo City*  
31 *Unified School District, a general statute cannot be made*  
32 *applicable within the meaning of Section 16 of Article IV of the*  
33 *California Constitution.*

34 *SEC. 15. No reimbursement is required by this act pursuant*  
35 *to Section 6 of Article XIII B of the California Constitution*  
36 *because the only costs that may be incurred by a local agency or*  
37 *school district are the result of a program for which legislative*  
38 *authority was requested by that local agency or school district,*  
39 *within the meaning of Section 17556 of the Government Code and*  
40 *Section 6 of Article XIII B of the California Constitution.*

SEC. 16. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to address the fiscal emergency in which the Vallejo City Unified School District finds itself and to ensure that it meets its cash obligations for this fiscal year, it is necessary that this act take effect immediately.*

~~amended to read:~~

~~8265.7. Notwithstanding Section 8265, programs at or above the standard reimbursement rate may be considered on a case-by-case basis for rate adjustments due to documented increases in insurance costs.~~

~~SEC. 2. Section 8273 is added to the Education Code, to read:~~

~~8273. (a) A child care provider that is not a school district, county superintendent of schools, city, county, community college district, or the California State University or University of California and contracts with the department shall establish in a federally insured banking institution located in California, an interest-bearing account to be known as the "child development fund" into which shall be paid all funds received by the contractor, or from the operation of, child development services under this chapter.~~

~~SEC. 3. Section 8274 is added to the Education Code, to read:~~

~~8274. A contractor funded for a center-based program pursuant to this chapter shall be allowed reimbursement for up to four days a year for staff training. A contractor shall record child attendance for each of these staff training days equal to the average program attendance during the calendar month of each of the staff training days for purposes of receiving funding.~~

~~SEC. 4. Section 8471 is added to the Education Code, to read:~~

~~8471. (a) A provider of extended day care services under contract pursuant to this article whose costs of operation exceed its earnings under the rate assigned pursuant to Section 8470 may request that its contract be terminated, in which case, upon presentation of cost evidence as required by the superintendent, the department and provider shall enter into a contract pursuant to Article 8 (commencing with Section 8240) that provides as follows:~~

1     ~~(1) The contractor shall continue to serve children enrolled in~~  
2     ~~kindergarten and grades 1 to 8, inclusive, who meet the eligibility~~  
3     ~~requirements for general child care and development programs~~  
4     ~~with funds transferred pursuant to this article, including any~~  
5     ~~increase provided by the state.~~

6     ~~(2) The program staff employed on the date the contract is~~  
7     ~~entered into shall have seven years from that date to meet program~~  
8     ~~personnel qualifications that apply to general child care and~~  
9     ~~development programs. The superintendent shall issue waivers of~~  
10    ~~program personnel qualifications as needed during these five years~~  
11    ~~for that program staff if the staff meets the personnel requirements~~  
12    ~~under rules and regulations adopted pursuant to Section 8261.~~

13    ~~(3) The contract shall be retroactively effective as of July 1 of~~  
14    ~~the fiscal year in which it is modified.~~

15    ~~(b) For purposes of implementing this section, the~~  
16    ~~superintendent may transfer funds from the amount appropriated~~  
17    ~~in the annual Budget Act for extended day care program contracts~~  
18    ~~to use for payment of general child care and development program~~  
19    ~~contracts. At the end of the fiscal year, the superintendent shall~~  
20    ~~notify the Department of Finance that the funds were transferred.~~  
21